

REMARKS

The election of claims 1-13 is affirmed; claims 14-17 are withdrawn.

Upon entry of the present amendment, claims 1-13 and 18-22 are pending and claims 14-17 are withdrawn. Support for new claims 18 and 19 can be found in the present application, for example, at p. 39, l. 9- p. 40, l. 2. Support for new claims 20-22 can be found in the present application, for example, at p. 60, l. 24 – p. 61, l. 18.

The Examiner's indication that claims 3-8 would be allowable if rewritten in independent form is noted with appreciation. Claim 3 has been rewritten in independent form, and claims 4-8 depend therefrom.

Claims 1 and 2 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. Publ. No. 2002/0048621 to Boyd et al. in view of U.S. Patent Nos. 6,758,130 to Sargent and 5,080,008 to Helbling. It is respectfully submitted that claims 1 and 2 are not unpatentable over Boyd in view of Sargent and Helbling.

The Office action relies upon Helbling instead of Boyd and Sargent for disclosure of a user interface for initiating an operating cycle of a beverage preparation system. However, the Office action fails to identify any disclosure in Helbling of user interface where operation of the user interface is independent of the beverage type being dispensed, as recited in claim 1.

Indeed, Helbling does not disclose a user interface where operation of the user interface is independent of the beverage type being dispensed, as recited in claim 1. As described in the present application, the beverage preparation machine "is simple to operate. In particular the same method of operation is used by a consumer irrespective of the beverage type to be dispensed." (p. 3, ll. 19-21.)

Instead of disclosing a user interface where operation of the user interface is independent of the beverage type being dispensed, Helbling discloses a microprocessor that has a number of inputs: "For example, to program the unit and for product and quantity selection purposes, an input 55 can be provided from a selector key pad 56. Any other push button array or selector button array may also be used if desired." (Col. 5, ll. 28-32.) Helbling further discloses "switches for controlling the microprocessor and

selecting the product or a particular programs can be provided in a row at 116 l the embodiment of FIG. 4.” (Col. 7, ll. 59-62.)

Claims 9-13 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Boyd. It is respectfully submitted that claims 9-13 are not anticipated by Boyd.

Boyd does not disclose a memory for storing information about the beverage cartridges dispensed by the beverage preparation machine. Instead, Boyd only discloses a memory or data storage 150 containing information about packets 10 before beverages are dispensed therefrom. Boyd discloses that a sensor 130 may read a machine interpretable feature 30 of a packet 10 and then a processor 140 may match the machine interpretable feature with predefined brewing operation instructions stored in the memory. (See Boyd, ¶ 33.)

As disclosed in the present application, p. 60, l. 24 – p. 61, l. 18, the advantages of a memory for storing information about the beverage cartridges dispensed by the beverage preparation machine include, in one example, being able to adjust the operating cycle of the machine for a next cartridge, such as when two or more cartridges are used sequentially for form a beverage. In another example disclosed in the present application, the memory can be used to ‘predict’ the type of beverage that a user will next want to dispense, and may instruct the water heater to remain at the optimum temperature for that beverage type.

For the foregoing reasons, reconsideration of claims 1, 2 and 9-13 and allowance of claims 1-13 and 18-22 is respectfully requested.

Application No. 10/763,444
Amendment dated February 28, 2007
Reply to the Office action of October 30, 2006

The Commissioner is hereby authorized to charge any additional fees which may be required in this application to Deposit Account No. 06-1135.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

Date: February 28, 2007

/Jon A. Birmingham/

Jon A. Birmingham

Registration No. 51,222

120 S. LaSalle Street, Suite 1600
Chicago, Illinois 60603-3406
Telephone: 312.577.7000
Facsimile: 312.577.7007